

# ***City Council Meeting Minutes***

**September 5, 2017  
City Hall, Council Chambers  
749 Main Street  
7:00 PM**

## **SPECIAL MEETING – EXECUTIVE SESSION 6:00 PM**

**Call to Order** – Mayor Muckle called the meeting to order at 6:00 p.m.

**Roll Call** was taken and the following members were present:

**City Council:**      ***Mayor Robert Muckle  
Mayor Pro Tem Jeff Lipton  
Councilmember Jay Keany  
Councilmember Chris Leh  
Councilmember Susan Loo (arrived 6:05 pm)  
Councilmember Dennis Maloney  
Councilmember Ashley Stolzmann***

**Staff Present:**    ***Heather Balser, Interim City Manager  
Aaron DeJong, Director of Economic Development  
Rob Zuccaro, Director of Planning and Building  
Meredyth Muth, City Clerk***

**Others Present:**   ***Sam Light, City Attorney***

### **PENDING LITIGATION**

(Louisville Charter, Section 5-2(d) – Authorized Topics – Consultation with an attorney representing the City with respect to pending litigation, and C.R.S. 24-6-402(4)(b))

### **REAL PROPERTY ACQUISITION AND DISPOSITION**

(Louisville Charter, Section 5-2(c) – Authorized Topics – Consideration of real property acquisitions and dispositions, only as to appraisals and other value estimates and strategy, and C.R.S. 24-6-402(4)(a))

Mayor Muckle announced the agenda item and the City Clerk read the statement required by City Code.

Attorney Light stated Section 5-2(d) of the home rule charter authorizes an executive session for the purpose of consultation with an attorney representing the City with respect to pending litigation, which includes actual pending lawsuits as well as situations where the person requesting the session believes in good faith that a lawsuit may result. An executive session for this purpose is also authorized by Section 24-6-402(4)(b) of the Colorado Open Meetings Law.

He stated Section 5-2(c) of the home rule charter also authorizes an executive session for the purpose of consideration of real property acquisitions and dispositions, provided such session is limited to consideration of appraisals and other value estimates and strategy for the real property acquisition or disposition. An executive session for this purpose is also authorized by Section 24-6-402(4)(a) of the Colorado Open Meetings Law.

Attorney Light stated regarding the first request, the City Manager is requesting an executive session for consultation with the City Attorney regarding pending litigation, which in this case does not involve a pending lawsuit but situations where lawsuits may result. He stated he joins in the request and believes the situations that are the topic of the discussion are of such a nature that legal action may result.

Mayor Muckle moved to go into executive session for the purpose of consultation with the City Attorney with respect to pending litigation, and that the executive session include the City Manager, City Attorney, Planning Director, and Economic Development Director. Mayor Pro Tem Lipton seconded the motion. Voice vote passed 6-0.

Attorney Light stated regarding the second request, the City Manager is requesting City Council convene an executive session for the purpose of consideration of potential real property acquisitions and dispositions concerning properties in Louisville.

Mayor Muckle moved to go into executive session for the purpose of consideration of potential real property acquisitions and dispositions with regard to properties in Louisville, but only as to appraisals and other value estimates and strategy for same, and that the executive session include the City Manager, City Attorney, Planning Director, and Economic Development Director. Mayor Pro Tem Lipton seconded the motion. Voice vote passed 6-0.

Members went into executive session at 6:04 pm.

Members returned from executive session at 7:03 pm.

**REPORT – DISCUSSION/DIRECTION/ACTION – PENDING LITIGATION AND REAL  
PROPERTY ACQUISITIONS/ DISPOSITIONS**

City Attorney Light reported the executive session discussion was for a litigation matter and matters regarding real property acquisitions and dispositions. No action is requested this evening except to continue the executive session to after the regular meeting. Mayor Muckle moved to continue the executive session after the regular meeting; Councilmember Keany seconded. Voice vote: all in favor.

Members adjourned to the regular meeting at 7:05 p.m.

## **REGULAR MEETING**

**Call to Order** – Mayor Muckle called the meeting to order at 7:05 p.m.

**Roll Call** was taken and the following members were present:

**City Council:**        *Mayor Robert Muckle*  
                              *Mayor Pro Tem Jeff Lipton*  
                              *Councilmember Jay Keany*  
                              *Councilmember Chris Leh*  
                              *Councilmember Susan Loo*  
                              *Councilmember Dennis Maloney*  
                              *Councilmember Ashley Stolzmann*

**Staff Present:**       *Heather Balser, Interim City Manager*  
                              *Kevin Watson, Finance Director*  
                              *Joe Stevens, Director of Parks & Recreation*  
                              *Kathy Martin, Recreation Superintendent*  
                              *Aaron DeJong, Director of Economic Development*  
                              *Rob Zuccaro, Director of Planning & Building Safety*  
                              *Lauren Trice, Associate Planner*  
                              *Dave Hayes, Police Chief*  
                              *Meredyth Muth, City Clerk*

**Others Present:**    *Sam Light, City Attorney*

## **PLEDGE OF ALLEGIANCE**

All rose for the pledge of allegiance.

## **APPROVAL OF AGENDA**

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda, seconded by Councilmember Stolzmann. 6-0 All were in favor. Absent: Councilmember Loo.

## **PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

Deb Fahey, 1118 W. Enclave Circle, thanked Council for the Labor Day parade. She thanked Council for all the work on sustainability in Louisville and suggested Council consider a ballot initiative similar to Denver's requiring new buildings have at least 20% of the roof be covered with solar panels or garden roofs.

### **APPROVAL OF THE CONSENT AGENDA**

MOTION: Mayor Muckle moved to approve the consent agenda, seconded by Councilmember Maloney. All were in favor.

- A. *Approval of Bills***
- B. *Approval of Minutes: August 8, 2017; August 15, 2017; August 29, 2017***
- C. *Approval to Have a Special Meeting at 6 PM on September 26 Prior to the Study Session***
- D. *Approval to Have a Special Meeting at 4 PM on October 2***
- E. *Approval of Intergovernmental Agreement with Boulder County for Access to Ballot Box Video Footage***
- F. *Approval of Appointment of Bart Watson as a Full Member of the Local Licensing Authority***
- G. *Approval of Resolution No. 50, Series 2017 – a Resolution Extending the Suspension of Ordinance No. 1534, Section 3.20.412 Electronic Database; Retailer Held Harmless***
- H. *Approval of Resolution No. 51, Series 2017 – A Resolution Approving a Business Assistance Agreement with MMS Design, LLC for an Economic Development Project in the City of Louisville***

### **COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA**

Mayor Muckle also thanked everyone for the great Labor Day parade and all the entrants who participated.

### **CITY MANAGER'S REPORT**

Interim City Manager Balser asked Police Chief Hayes to give an update on the accident on September 1 at South Boulder Road and Centennial Drive.

Chief Hayes noted a young man rode his bicycle from the sidewalk into the crosswalk without dismounting and a car headed in the same direction collided with the boy. The boy was not seriously injured.

Interim City Manager Balser noted that in August the City released a request for proposals (RFP) for a feasibility study for design alternatives and connectivity on South Boulder Road. No proposals were submitted so the plan is to re-release the RFP in

early 2018. The blank outs for the crossings at Centennial Drive, Main Street, and Via Appia are on order and staff is attempting to expedite those.

Councilmember Leh asked if reissuing the RFP could be moved up on the calendar. Interim City Manager Balser said bidders noted most firms are busy now and the first of the year seems to be better timing.

Mayor Muckle noted everyone is concerned about safety in this area and will continue to work on this.

Interim City Manager Balser added Thursday, September 28 is Bus to Work Day. Cities throughout Boulder County are participating, including Louisville.

Interim City Manager Balser noted there is a sustainability lecture series coming with the first conversation being Energy and Money on Monday, September 18 at the library. Information will be available on the City website.

## **REGULAR BUSINESS**

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### **CONTRACT AMENDMENT FOR RECREATION/SENIOR CENTER AND MEMORY SQUARE POOL SITE WORK AND FOUNDATION PACKAGE**

Mayor Muckle introduced the item. Director Stevens stated this is a contract for site and foundation work for the Recreation Center expansion with Saunders Construction. This is the first step to getting to the total Guaranteed Maximum Price (GMP) for the expansion of the Recreation/Senior Center. This is a very aggressive schedule; it was only 10 months ago the bond issue was approved. This amendment to the initial contract with Saunders amounts to over \$9M to cover the initial phase of construction. This is fast moving, focusing on completion by fall of 2018. Work needs to start within the next month. Still looking for about \$3M to cover the costs. The goal is to return to Council on November 6<sup>th</sup> to approve the final GMP. Director Stevens noted members of the design team were available to answer questions.

Councilmember Maloney asked Interim City Manager Balser about the project cuts suggested to make up the \$3M. He asked if any other items were being looked at such as fees and operating costs. Interim City Manager Balser stated there are other options, including interfund transfers or loans, pursuing a DOLA grant, or using some of the turnback from 2017. This will be discussed at the budget meeting on September 26.

Mayor Pro Tem Lipton asked what additional risks there might be with the project and what other costs might occur as the project continues. Director Stevens stated staff has been working hard to keep the costs down and be expeditious. He stated getting good construction numbers has been a problem.

Jaime Rodriguez, Saunders Construction, senior project manager, noted value engineering and current drawings have been completed. Greg Caldwell, Saunders Construction, stated a third of the project has been bid is ready for sign off, including the foundations and soils which are big risk items. The dirt is the biggest risk of the project so having that done is good. Costs are increasing in mechanical and electrical but those have been managed. The project is now looking at finishes and structure items which can be managed much better for cost. Soils being complete does end one of the biggest risks.

Mayor Pro Tem Lipton asked when the contingency funds can start to be released. Caldwell stated that will be released at the last bid, the other 2% will be held until closer to when it is all contracted and subbed. At 50% construction they will be able to provide a good idea how much can be released.

Mayor Pro Tem Lipton stated he is concerned with there being many add-alternates and change orders. He wants staff to look very critically at costs as the project moves forward.

Public Comments – None.

Mayor Pro Tem Lipton noted a letter from the Sustainability Board asking to make sure sustainability items stay in the project. Mayor Pro Tem Lipton and Mayor Muckle agreed it is important to keep these items in. Councilmember Loo noted the partnership grant for \$65,000 to work with Xcel Energy on energy issues.

Councilmember Stolzmann asked Council to review the list of suggested capital projects to cut to pay some of the costs. She suggested the Dillon Road quiet zone be removed from the list. She suggested looking at sales tax projections and other items other than capital cuts.

Councilmember Leh stated he favors keeping on the list; 1. Amend Parking Lot Design, 2. Additional Value Engineering Reductions 5. Remove Median Renovations in Capital Projects Fund in 2018, 10. Remove Improvements at Community Park Dog Park in 2018 in Lottery Fund, 13. Remove Vault Toilet in 2018 from Open Space& Parks Fund.

Mayor Muckle stated everything would be on the table and this list can be discussed in detail when final construction numbers are available. Council can go ahead with approving the contract amendment tonight. Interim City Manager Balser noted the proposed cuts are just suggestions and the larger conversation will be September 26 at the budget meeting. This is not intended to be the final list.

Mayor Pro Tem Lipton doesn't want to pit this project against other projects in the City. He would rather look at other areas of the budget where might be able to defer some investments rather than eliminating some small projects. He suggested deferring the

transfer to open space acquisition fund in 2019. He would rather see big ideas, not a bunch of small cuts.

Councilmember Maloney moved to approve the contract amendment for recreation/senior center work and foundation package with Saunders Construction LLC for a guaranteed maximum price of \$9,369,036.00, Councilmember Loo seconded.

**Vote:** Motion carried by unanimous roll call vote.

**DISCUSSION/DIRECTION/ACTION – REQUEST FOR APPROVAL OF MINERS CABINS RELOCATION AND REHABILITATION CONTRACT AND DONATION AGREEMENT**

Planner Trice stated this is a contract with Summit Construction to relocate the miner's cabins to City Services for temporary storage, begin rehabilitation, analyze site locations, and then move to a final site and complete the rehabilitation. The Request for Proposals (RFP) returned three proposals. The review committee recommended moving forward with Summit Construction. A donation agreement with the current owner of the cabins is also included for consideration.

Lynda Hayley, Historic Preservation Commission Chair, noted she was a member of the review committee and fully supports choosing the proposal from Summit Construction. Their proposal was thorough; the company has extensive work with historic preservation, and has a multi-disciplinary consulting team ready to go.

**Public Comments**

Lynn Hurst, Lynn's Recycled Houses, 4130 Chippewa Drive, Boulder, noted she moves houses for a living, did not bid on this because the RFP was not clear. She felt it should be bid as phase 1 and phase 2, from existing to location to City Services, and then from there to a final location. She thinks the numbers in the contract are much too high. There would be no need for excavation or a crane. She thought she could save the City a lot of money if she could bid the project.

Jean Morgan, 1131 Spruce Street, believes the logical way to do this is to move them to City Shops and use volunteers to prepare them for the winter, use volunteers to organize the stabilization, and the cleaning of the cabins. Others will volunteer to help with removal of trash and recycling. She felt the city shouldn't spend Historic Preservation Fund (HPF) funds on this job and should use volunteers for the project and let them be the driving force behind this project. Don't spend an outlandish amount of money that could be spent on other preservation projects.

Randy Caranci, 441 Elk Trail, Lafayette CO, noted he and George Weber put in a bid on this project. They worked on the Grain Elevator together and have a history of preservation work and won't exceed their prices. He stated the bid with Summit is 24%

over their price and the cost has risen without the contract being signed. He and Mr. Weber asked staff for an interview for the project, staff declined the interview they and were told staff went with the other company.

#### Council Comments

Councilmember Maloney stated this initiative is very important, we want to preserve the cabins. Taking a look at the direction Council gave staff he felt was a bit unclear. Council should have asked for more details including location, future uses, etc. The cabins need to be moved and preserved in as timely a manner as possible to a location under the City's control. The decision needs to be made on the final use and location. Until that time he was reticent to sign a contract. The path needs to be defined.

Mayor Pro Tem Lipton stated the immediate goal is to get them to City Services and protect them through the winter. More time is needed to figure out the rest of the details of the other phases.

Mayor Muckle said the direction to staff was to send out an RFP for the entire process. Council didn't give direction for multiple bids on different phases.

Councilmember Maloney felt staff did follow Council direction, but he was reticent to move ahead with anything beyond 1A until the intended use is determined by Council

Councilmember Loo agreed with Mayor Muckle that staff did what Council asked. Residents asked staff and Council to save the cabins and now are saying "not that way." Everyone agreed to move the cabins to City Services. If we are not storing them inside, can volunteers actually fix them by winter? There is a need to figure out what to do for the winter.

Councilmember Keany stated he thought phases 1a and possibly 1b should be completed but not the rest without further decisions. He asked if the process can be broken up into other phases. Director Zuccaro stated the contractor wouldn't move onto phase 2 and 3 without written authorization from the city. The idea is to get the cabins moved and protected from the elements and do exterior renovations. Phases 2 and 3 are site exploration, site preparation and moving to the final site.

City Attorney Light stated if Council's intent is to have an off ramp before phase two and three, there is a need to add language in the contract stating the City can decide to terminate without going on to phases 2 and 3.

Councilmember Keany supported the idea and noted his surprise at the cost. Councilmember Stolzmann wanted to move forward with 1a and 1b and rebid when know better what to do with phases 2 and 3. She encouraged a discussion after the election with the Historic Preservation Commission and the Historic Commission along



with public input and more conversation about other possible locations and possible uses.

Councilmember Loo asked what the plans are for storing them outdoors. Mayor Muckle stated he would like to see phase 1a and 1b completed which would weatherproof them.

Director Zuccaro stated 1a and 1b would be a total of \$85,319 for moving and exterior rehabilitation.

Joel Sydlow, Summit Construction, stated they would be comfortable working with the City on any of these phases. He proposed 1a and 1b to protect them for the winter or even just 1a if that is the case. He noted a willingness to work with volunteers.

Councilmember Stolzmann supported just completing 1a and covering them for protection without doing full rehabilitation for this winter.

Councilmember Keany supported 1a as long as the cabins are protected for the winter in some way and structurally sound. If volunteers are used, we need to know what staff costs would be needed to manage the project and if time is available.

Councilmember Leh agreed with just 1a to move and stabilize; don't do full rehabilitation until know what the long-term plan is.

Councilmember Loo asked if just 1a has volunteers included. Director Zuccaro stated no, that is the physical moving of the structures. Councilmember Loo re-stated doing phase 1a and no volunteers.

Mayor Muckle asked Joel Sydlow, if no rehab is done, what would he do. Mr. Sydlow stated a Tyvek wrap or something similar for the winter.

Motion: Councilmember Maloney moved to approve phase 1a, moving to location chosen by the City staff and weatherizing for the winter. Mayor Muckle seconded.

Mayor Pro Tem Lipton asked when site review needed to be done. Mayor Muckle stated he supported Councilmember Stolzmann's suggestion that after the election the Historical Commission and HPC weigh in on sites. Mayor Pro Tem Lipton stated site evaluation should be kept in as an alternate in the contract. Mayor Muckle suggested approval of the entire contract with provisions to give notice to proceed with 1a and weatherization and then go ahead with each section as needed or not.

City Attorney Light noted the motion on table is to approve a contract for moving the cabins (1a) with weatherizing added. An alternative would be to approve entire contract with notices to proceed or termination at certain points in time. He suggested the

motion be amended to approve the entire contract with the right to terminate at certain points.

Councilmember Maloney accepted the friendly amendment of approving the entire contract with the right to terminate at certain points.

Councilmember Stolzmann does not support the friendly amendment. Just do 1a and Tyvek until have further information.

Attorney Light noted the need to include in the motion the express statement of authority for mayor and city manager to negotiate and execute final contract based on the direction given.

Motion: Maloney moved to approve the contract as presented subject to rights of termination at any point in time after completion of 1a and Tyvek and mayor and city manager negotiate and approve.

Mayor Pro Tem Lipton suggested an alternative to the motion: approve 1a with Tyvek wrapping and include phase 2 to evaluate sites so that is done as soon as possible.

Councilmember Loo spoke in favor of the amended motion as this is a good deal in the end price wise.

Attorney Light stated the motion pending is to approve the proposed contract as presented in the packet subject to revisions to provide language saying the City has the right to terminate at its discretion after any phase other than phase 1 and the weatherproofing which is the Tyvek wrapping. The mayor and city manager be authorized to negotiate and approve the final revised version of the contract.

Councilmember Maloney asked if that means it could complete parts of 1b and not others and then terminate. Attorney Light noted that flexibility can be written into the contract.

**Vote:** Motion passed (**summary:** Yes = 5, No = 2, Abstain = 0).

**Yes:** Council Member Leh, Mayor Muckle, Council Member Maloney, Council Member Keany, Council Member Loo.

**No:** Mayor Pro Tem Lipton, Council Member Stolzmann.

Motion: Councilmember Stolzmann moved to accept the donation agreement by the owner of the cabins, seconded by Mayor Muckle.

Voice Vote: All in favor.

**DISCUSSION/DIRECTION – AN ORDINANCE AMENDING CHAPTER 9.34 OF THE LOUISVILLE MUNICIPAL CODE TO ADDRESS AMPLIFIED SOUND AND LIVE**

**MUSIC REPEALING CHAPTER 9.40 AND MAKING CORRESPONDING  
AMENDMENTS TO THE LOUISVILLE MUNICIPAL CODE**

City Clerk Muth stated on May 17, the Legal Review Committee discussed the attached proposed noise ordinance. The City Attorney's Office and staff prepared the ordinance based on feedback staff received from City Council at the November 29, 2016 Council study session. The proposed ordinance creates restrictions on amplified sound and live music based on decibel (dBA) levels, time of day, and zoning.

Muth stated sound would be measured at the property boundary of the property receiving the sound and measurements will be taken by police staff with an approved decibel meter. There are options for relief from the ordinance through the special event permit, a block party permit, or a park rental permit. Council will need to determine where to set the decibel levels.

She stated there are there are other ways noise can be addressed. Staff can place limits on music and sound for special events by the conditions placed on the event permit. In addition, the Planning Department can regulate music and amplified sound by limiting hours in the Special Review Use (SRU) process or, in some cases through existing revocable license agreements. These rules do not have any effect on indoor music.

Muth noted that even with the decibel levels in place this may still be somewhat subjective; decibel readings can be affected by wind, weather, location, and other factors. Also, these proposed decibel levels are already being surpassed by businesses in the downtown area from indoor sound.

Muth stated this discussion initially came out of a series of complaints related to the special events, particularly at Community Park (outdoor movies and music going later into the evening). Staff feels this issue has been addressed through the special event and park rental permitting processes. Noise complaints related to Community Park are down significantly in the last two years.

After discussion at their May 11 meeting, the Legal Committee voted 3-0 to recommend Council take no further action on the draft ordinance.

Councilmember Council member Leh, chair of the Legal Committee, values inform this discussion. Those values include individual freedoms, quiet enjoyment of your property & freedom to conduct business and patronize a business. Communal values include potential health risks, small town feel of Louisville, and what music does for that or detracts from it, potential indirect issue of tax revenue by changing business practices, and how disputes are resolved in a small town.

Councilmember Stolzmann stated the practice has been to try to educate and not issue tickets. She asked if the current code is hard to prosecute. Councilmember Leh stated it

is prosecutable. Chief Hayes stated the ordinance applies throughout town. The prosecutor has told him typically she wants a second complainant and additional research.

Councilmember Stolzmann asked if CRS §25-12-103 applies to Louisville. Attorney Light noted state statute regarding noise control creates a private right of action, and does not automatically apply within a municipality. Some municipality's say noise control is a matter of local control. A local ordinance allows writing violations into the municipal court. Statute has language that allows a municipality to create rules no less restrictive, but is not completely clear about creating more restrictive rules.

Councilmember Leh noted a May 11 email from Chief Hayes stating current police process. The police department currently seeks voluntary compliance, education and if need be, enforcement.

#### Public Comments

Joel Hayes, 187 Harper Street, noted an email he had sent stating with so few complaints he hopes Council does not make any changes to the current ordinance. He added music is an art form with intrinsic value of its own. Hundreds of people who listen or play music in our community should outweigh the few complaints. He played his mandolin showing the live music decibel level in the proposed ordinance is too low. He doesn't want to have an ordinance that would limit his ability to play an instrument in his own backyard.

Chuck Martin, 1433 North Franklin Court, stated one big value to add to the list is music and arts in town. There is a thriving music scene in town and has venues to play. Logistically decibel levels sound good, but it would shut down the music scene in this town.

Tom Rafferty, 945 Rex Street, stated he didn't know about this discussion and would like more notice about such discussions. This affects many people and more notice would be better. Thanks for addressing Street Faire noise. It has been better in the last year. He noted he loves music, but can hear the music from five blocks away from downtown and is super aggravated with the noise. He bought his house in 1980 and is asking music be indoors. Multiple restaurants downtown are making music. This is a quality of life issue. He expressed thanks for consideration on both sides.

Mark Oberholzer, 224 Hoover Avenue, resident and owner of the former Blue Parrot building and Tilt pinball, who also serves as Chairman of BRaD, noted as a business owner and resident he is against the ordinance. BRaD discussed this and voted unanimously to recommend against the ordinance. It is solving a problem that doesn't need solving. Police and staff can handle this. Perhaps a modified ordinance in the future if needed.

Andrew Muller, 3808 St. Vincent Place, Boulder, noted in 2007 he started buying property in downtown, no one was here, rents were low and it felt like a ghost town. Since then downtown has become a vibrant and exciting community, great impact on tax revenue, attracts other great businesses. Small business people who are neighbors can solve this problem by agreeing to talk it out. Louisville is no longer the only cute downtown, what we have is vibrant but also fragile.

Patrick Walsh, 1315 Lambert Circle, Lafayette, Bittersweet owner, has two businesses that offer live music, Bittersweet and Por. He went through an extensive Special Review Use process to develop those properties. The Special Review Use process is legitimate and this goes in the face of that. There are mechanisms in place to alleviate concerns about noise. A number of the complaints are from Street Faire, and he has been told those were dealt with in a different way. If that is the case address Street Faire, not impact other businesses. Live music venues have been well received and are not the same as other types of noise.

#### Council Comments

Councilmember Leh noted the initial meetings on this issue were noticed. He stated he is not in favor of changing the current approach. He received a lot of emails about this ordinance, both for and against. Overwhelmingly the comments are against the ordinance. The PD policy is very much in keeping with the dispute solution policy this kind of a problem demands. There are unintended consequences of over regulation; this adversely affects many business practices. The value of music needs to be protected. This solution leaves it up to a noise meter not a person; we should leave it to the discretion of the police department.

Councilmember Stolzmann stated she has had a lot of complaints over the last few years either from special events or live music. She noted many people don't want to call the police for any reason. The proposed ordinance needs different decibel levels and more distances, more finesse and specificity is needed. Ways to improve this ordinance to create something that walks the fine line of a lively active downtown and neighborhood peace. She would rather not have a complaint driven approach; but have something enforceable by the police department without a complaint or two that the prosecutor might want. There needs to be a compromise so neighbors can enjoy peace without being too restrictive. She noted the Council will likely continue to discuss this and there needs to be some kind of governance that is a compromise.

Councilmember Keany took pause that the prosecutor won't prosecute without two complaints. This may not be the right solution, but something is needed. The numbers suggested are simply too low. There is a need to be more proactive. He hoped businesses are cooperative with officers; take a walk away from your business and see if you can hear it. We already have some businesses that should be turning down the music. There is a need to be more proactive than reactive to complaints. Business owners need to be more responsive to neighbors.

Councilmember Leh stated we need to be very careful we don't make the situation worse by regulation. The question is what approach to take. He thinks staying the course makes the most sense. We will never get rid of all noise complaints; it is a questions of how you are going to address the complaints. The PD doesn't generally police things that aren't being complained about. Residents should complain if they want to and an officer should be able to come resolve it easily; the business community has the responsibility to police themselves too. If the move to a decibel level approach is going to get single complaints that may end up shutting down a business activity; is that the power you want to give one resident. The PD can educate and resolve issues. If regulated as proposed, we are going to get more complaints about the ordinance than about the noise.

Mayor Pro Tem Lipton stated there are concerns, but this proposed ordinance may not be the best approach. He challenged the DBA and BRaD to suggest a different approach and present it to Council.

Chief Hayes noted the previous lore was the noise ordinance didn't apply downtown and before midnight. New direction is to talk to anyone and everyone who has a complaint. The police department is trying to educate people it is okay to call the police and let them try to mediate, resolve and document any issues. Their preference is always to try to resolve the issue without a summons.

Councilmember Maloney was supportive of the recommendation to stay the course. He thanked the police department for their efforts.

Mayor Muckle agreed and also supported Mayor Pro Tem Lipton's suggestion. He expressed support for proactive efforts for education and engagement.

Mayor Muckle recapped the consensus to follow the Legal Committee recommendation and also to suggest to BRaD and the DBA to discuss this and bring suggested solutions to the Council.

### **DISCUSSION/DIRECTION/ACTION – POLICY REGARDING NON-PROFIT ORGANIZATIONS**

Councilmember Leh stated the Legal Review Committee (LRC) discussed the policy for non-profit organizations for a long time. Most of the stakeholders in this have chimed in and the LRC has a much better policy as a result. This was drafted to address several issues in the City's dealings with nonprofit organizations. Louisville has a lot of nonprofit organizations, some of which the City supports with grant dollars. Some of those associated with City boards have issues of what functions should be independent of City's control legal liability; how much staff assistance to provide if any; and issues of compliance with open records and open meeting rules. The City needs to treat nonprofit organizations consistently across the board. This would not apply to any nonprofit that

doesn't do business with the City but only if they receive financial assistance or other support such as staff or facility use.

The simple policy precludes City employees serving on boards associated with the City, does not limit board and commission members from being involved in other boards, ensures full independence between the nonprofit organizations and the City.

Councilmember Leh noted the nonprofits gave input on the draft. There was agreement this balances the City's liability and still doesn't discourage people from volunteering around the City.

Mayor Pro Tem Lipton noted the two years spent vetting this and shopping it to nonprofits affected. It protects the City and allows the nonprofits to function.

Public Comment – None.

Mayor Muckle asked if the nonprofits feel this is workable and won't increase costs. Councilmember Leh stated yes, it should work for both those nonprofits associated with the City and those receiving assistance. It does illuminate for many that they have a number of legal requirements to adhere to along with fiduciary responsibilities. It alerted the nonprofits that they may be liable and should be carrying insurance for their own protection.

Councilmember Stolzmann stated still need to address:

- Clarify use of City space for nonprofits, standardized policies
- Policy around if a City will partner on a fund raiser for nonprofits
- Need policy about how nonprofits can advertise on the City calendar, in the utility bill, and in the City newsletter
- If Cultural Council grant goes to the board or the nonprofit. Councilmember Stolzmann felt the city should apply for SCFD grant not nonprofit.

She asked how US36 Commuting Solutions is different than the History Foundation in regards to staff on those boards.

Councilmember Leh answered as follows:

A fact not directly written in the policy doesn't mean it was not addressed or can be addressed elsewhere. All city facilities have same policy on the use of space. This shouldn't be addressed with this policy. Partnering issues should be left up to board and city staff.

Councilmember Stolzmann felt there needs to be work on policies in other areas like the space and partnering issues to address them fairly.

Councilmember Leh noted the advertising – calendar, newsletter, etc. If open to one nonprofit should open to other nonprofits. All need to be treated the same. Council member Stolzmann felt a policy needed to be developed to insure that fairness.

Councilmember Leh had heard the Cultural Council was going to be using their nonprofit to raise money for public art. The grant funding would be LCC board money and kept within City.

Councilmember Leh was not sure how to address the Commuting Solutions board and staff.

Councilmember Loo moved to approve the nonprofit policy, Mayor Pro Tem Lipton seconded.

Attorney Light noted the item concerning staff serving on a board was designed to protect both the city and the individual from the ambiguity about liability risk when you have an overlapping directorate. He will review this issue and any change would come back to Council.

Voice Vote: All in favor.

#### **CITY ATTORNEY'S REPORT**

None.

#### **COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS**

Councilmember Stolzmann noted DRCOG will be talking about the regional and subregional allocation of funds for 2020-2024 TIP. There is some split over whether the allocation should be regional or subregional. She will be promoting the regional pool of funds unless there are strong feelings the other way. Mayor Muckle supported regional allocations.

Councilmember Keany apologized to Public Works and Planning staff for comments three weeks ago. Following the meeting he got additional information showing staff had gone above and beyond on the issue.

Mayor Muckle encouraged Councilmembers to use this time for updates from the boards to which they are liaisons.

Mayor Pro Tem Lipton requested Council spend time on the advanced agenda. It was noted it would be done at study session.

#### **ADJOURN REGULAR MEETING**



Members adjourned the regular meeting at 10:00 PM.

## **RETURN TO SPECIAL MEETING EXECUTIVE SESSION**

### **PENDING LITIGATION**

(Louisville Charter, Section 5-2(d) – Authorized Topics – Consultation with an attorney representing the City with respect to pending litigation, and C.R.S. 24-6-402(4)(b))

### **REAL PROPERTY ACQUISITION AND DISPOSITION**

(Louisville Charter, Section 5-2(c) – Authorized Topics – Consideration of real property acquisitions and dispositions, only as to appraisals and other value estimates and strategy, and C.R.S. 24-6-402(4)(a))

Mayor Muckle announced the agenda item and the City Clerk read the statement required by City Code.

Attorney Light stated Section 5-2(d) of the home rule charter authorizes an executive session for the purpose of consultation with an attorney representing the City with respect to pending litigation, which includes actual pending lawsuits as well as situations where the person requesting the session believes in good faith that a lawsuit may result. An executive session for this purpose is also authorized by Section 24-6-402(4)(b) of the Colorado Open Meetings Law.

He stated Section 5-2(c) of the home rule charter also authorizes an executive session for the purpose of consideration of real property acquisitions and dispositions, provided such session is limited to consideration of appraisals and other value estimates and strategy for the real property acquisition or disposition. An executive session for this purpose is also authorized by Section 24-6-402(4)(a) of the Colorado Open Meetings Law.

Attorney Light stated regarding the first request, the City Manager is requesting an executive session for consultation with the City Attorney regarding pending litigation, which in this case does not involve a pending lawsuit but situations where lawsuits may result. He stated he joins in the request and believes the situations that are the topic of the discussion are of such a nature that legal action may result.

Mayor Muckle moved to go into executive session for the purpose of consultation with the City Attorney with respect to pending litigation, and that the executive session include the City Manager, City Attorney, Planning Director. Councilmember Stolzmann seconded the motion. Voice vote passed 7-0.

Attorney Light stated regarding the second request, the City Manager is requesting City Council convene an executive session for the purpose of consideration of potential real property acquisitions and dispositions concerning properties in Louisville.

Mayor Muckle moved to go into executive session for the purpose of consideration of potential real property acquisitions and dispositions with regard to properties in Louisville, but only as to appraisals and other value estimates and strategy for same, and that the executive session include the City Manager, City Attorney, and Planning Director. Councilmember Maloney seconded the motion. Voice vote passed 7-0.

Members returned to the executive session at 10:04 p.m.

Members returned from executive session at 10:45 p.m.

**REPORT – DISCUSSION/DIRECTION/ACTION – PENDING LITIGATION AND REAL  
PROPERTY ACQUISITIONS/ DISPOSITIONS**

City Attorney Light reported the executive session discussion was for a pending litigation and real property acquisition and disposition matters. There was discussion of matters where litigation might result. No specific action was requested this evening, he will proceed with the strategy provided by Council and keep updating as needed.

Members adjourned the special meeting at 10:45 p.m.

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Robert P. Muckle, Mayor

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Meredyth Muth, City Clerk